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No. 91-1421

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In the Supreme Court of the United States

OCTOBER TERM, 1992

UNITED STATES OF AMERICA, PETITIONER

v.

WILLIAM F. HILL AND LOLA E. HILL

**ON WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT**

SUPPLEMENTAL BRIEF FOR THE UNITED STATES

KENNETH W. STARR
Solicitor General
Department of Justice
Washington, D.C. 20530
(202) 514-2317

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On October 24, 1992, the President signed into law the Energy Policy Act of 1992, H.R. 776, 102d Cong., 2d Sess. Section 1915(a) of the Act amends Section 57(a)(1) of the Internal Revenue Code and provides that, for years after December 31, 1992, the depletion allowance for oil and gas production that is permitted for independent oil and gas producers and royalty owners under Section 613A(c) of the Internal Revenue Code will *not* be treated as an item of tax preference subject to the minimum tax.

Since respondents' percentage depletion allowance for oil and gas production is taken pursuant to Section 613A(c) of the Code, their allowance for years *after* 1992 will not be subject to the minimum tax, as

the statute has now been amended. The amendments adopted in Section 1915 of the Energy Policy Act of 1992, however, do not alter or affect respondents' minimum tax liability for the years *before* 1992 that this case involves. The amendments also do not alter or affect the minimum tax liability of producers of *other* types of minerals—such as coal and hard mineral producers like *amici* The National Coal Corporation, *et al.*—for percentage depletion allowances authorized under Section 613 of the Internal Revenue Code for years before or after 1992.

Respectfully submitted.

KENNETH W. STARR
Solicitor General

OCTOBER 1992